

**BUSINESS AFFAIRS AND HUMAN RESOURCES
AUGUST 14, 2014**

TAB	DESCRIPTION	ACTION
1	BAHR - IDAHO STATE UNIVERSITY – INTELLECTUAL PROPERTY FOUNDATION	Motion to approve
2	BAHR - FY 2015 SUPPLEMENTAL BUDGET REQUESTS	Motion to approve
3	IRSA - UNIVERSITY OF IDAHO – BOARD POLICY III.Y. ADVANCED OPPORTUNITIES – WAIVER	Motion to approve

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IDAHO STATE UNIVERSITY

SUBJECT

Formation of Idaho State University Intellectual Property Foundation, Inc.

APPLICABLE STATUTE, RULE, OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Sections V.E. and V.M.

Idaho State Board of Education Institution Technology Licensing Guidelines

BACKGROUND/DISCUSSION

Summary of Proposal

Idaho State University (ISU) requests authority to establish the Idaho State University Intellectual Property Foundation, Inc. (IPF) to facilitate the beneficial use of the ISU's intellectual property for Idaho and the nation. IPF will take steps to make technology transferred to it from the ISU commercially feasible. This proposal follows nationally competitive and successful approaches to research commercialization.

IPF will work with the ISU to identify technology with commercial potential. Such technology, as represented by intellectual property, will be transferred to IPF pursuant to State Board of Education (State Board) policies. IPF will take steps to commercialize the technology and generate revenue therefrom. Such revenue may result from various sources, including, without limitation, royalties, licenses, operations, and equity positions. The IPF will commercialize ISU technology through licensing agreements drafted in compliance with State Board policy and the Institution Technology Licensing Guidelines. In return for the license, IPF may either receive royalties and/or equity, depending on the circumstances and taking into consideration how to best bring the ISU technology to market. IPF will be prohibited from taking majority ownership positions in companies and will not be involved in the operations of any company in which it holds equity.

ISU will initially support the creation and operation of the IPF through its annual budgeting process. It is anticipated that when it is self-sustaining, IPF will be funded through revenue generated from commercializing ISU's technology. Initially, IPF's staff will consist of an Executive Director and a minimum of support personnel. The IPF Board of Directors will be charged with keeping IPF's operating costs to a minimum.

Rationale

The overarching rationale behind this proposal is to create a mechanism that facilitates and expedites the translation of basic research into the private sector.

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It accomplishes this by creating a separate non-profit “intellectual property foundation” that will a) identify potential clients of ISU’s intellectual property (IP), b) facilitate client investment in ISU technology or technology development, and c) commercialize ISU IP via appropriate mechanisms. A major focus of the IPF and its Board of Directors will be to aggressively foster activities that bolster Idaho companies, create new Idaho companies, attract new business opportunities to Idaho, and add jobs to the Idaho economy in a manner consistent with its purpose to support ISU. Furthermore, the IPF Board of Directors will be charged with ensuring that ISU’s research and educational mission is paramount in their decision making process.

Delineation of Functions between Office for Research & Economic Development and Intellectual Property Foundation

The Office for Research and Economic Development (ORED) encourages and assists in the development and protection of IP developed by ISU faculty, staff and students. The office promotes the transfer of technology in an effort to provide benefit and support to ISU’s academic mission, enhance the urban and state economy, and provide general public access to ISU’s IP in a manner that is consistent with the university’s academic principles. The office has the additional mission to identify, develop and establish relationships with business, industry and trade groups (preferably in Idaho, but not limited thereto) for joint programs of mutually beneficial economic impact to both parties and the State of Idaho. The office should not be involved in negotiating business deals with the private sector, in the generation and submission of Small Business Innovation Research/Small Business Technology Transfer (SBIR/STTR) grants, or the formation of new companies.

The ORED has primary responsibility for the following aspects of ISU technology development and transfer:

- Promotes the creation of knowledge through the research programs at ISU;
- Assists the knowledge creators and the university to “package” such created knowledge into manageable units (i.e. IP), and assists research personnel in completing the [Invention/Discovery Disclosure Form](#);
- Provides expertise to the university on actions appropriate to protect the university’s ownership of such IP; and
- Identifies and implements opportunities for extracting value by the successful commercial exploitation of such IP.

The overall goal of the ORED is to promote the development of ISU’s intellectual property and to enable the maximum value therein to be transferred to the commercial and economic community within the state. Recapture of economic or monetary value to the university is important, as such recaptured value enables

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the growth and expansion of funded research activities. However, it is of lesser value than the maximization of university contributed economic impact.

Role of the Intellectual Property Foundation

The proposed IPF will be an Idaho nonprofit corporation and will apply for tax exempt status under Internal Revenue Code section 501(c)(3). The IPF is proposed to support ISU's research activities by serving as a resource as ISU secures investments and grants from individuals, private organizations and public agencies, and obtains contracts with such individuals or entities for the performance of sponsored research, development, or other programs by the university. If the IPF helps negotiate research grants or contracts, the grants and contracts will be provided to the university, which is solely responsible for the fiscal administration of the grants. Thus, the research of the university will remain under the domain of ISU providing an important delineation of function.

A board comprised of five directors originally will manage the IPF. Two directors will be ISU employees appointed by ISU's president and the three remaining directors will be from the private sector. The initial IPF board and successors to the ISU employee directors will be appointed by ISU's president with successor private-sector directors appointed by the IPF Board of Directors.

The IPF Board of Directors will be charged to protect, as a function of their operational parameters, the best interests of ISU. This includes taking steps to reduce legal exposure and risk to ISU's reputation and taking steps to maximize revenue transferred to ISU in terms of grants, contracts, and licensing revenue. The means to accomplish this will vary on a case-by-case basis depending on an analysis of a variety of factors such as whether licensing intellectual property, working with an existing company to support research, or using the technology to start a new company best accomplishes the purposes for which the IPF is created. This analysis will also include consideration of the market structure associated with the intellectual property. The expertise of the IPF Board will be essential in determining the best strategy for commercializing the technology.

Focus on Technology Transfer

The operating agreement (to be entered into between the IPF and ISU) and the IPF bylaws will expressly require that the IPF abide by applicable State Board policies, procedures, and guidelines, ISU policies, and state and federal law, and act only in a manner consistent with these policies and laws.

In particular, when selecting licensee's for ISU technology, the IPF will consider whether the potential licensee:

- a. has a general business plan that delineates a clear strategy to commercialize the invention
- b. has or can secure the technical, financial and personnel resources to develop and commercialize the invention in a timely manner
- c. has experience relevant to developing and commercializing the invention
- d. has appropriate marketing capabilities

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- e. possesses a strong desire and commitment to make the technology a success
- f. is able to meet any regulatory requirements needed to commercialize the technology
- g. has, or can develop, sufficient capacity to satisfy the market demand for the technology
- h. demonstrates commitment to ISU's invention in light of other technologies competing for resources in the company
- i. has goals that align with those of ISU with respect to public benefit

IMPACT

ISU will facilitate the creation and operation of the IPF as necessary through its internal budgeting processes until the IPF becomes self-supporting. This support will involve provision of services to the IPF directly and through loaned ISU employees or, when necessary, through the direct expenditure or transfer of funds. If funds are transferred to the IPF by ISU, such transfer will be made pursuant to a line of credit in favor of ISU and upon terms satisfactory to ISU.

It is expected that revenue generated by a combination of contracts, licensing arrangements, investments in early- and mid-stage technologies, and equity positions in new companies will allow the IPF to become self-supporting. The IPF Executive Director and IPF Board of Directors will oversee the operation and management of the IPF with self-sufficiency as a primary goal.

ATTACHMENTS

Attachment 1 – ISU/IPF Operating Agreement	Page 7
Exhibit A – Loaned Employee Agreement	Page 21
Exhibit B – Services Agreement	Page 29
Exhibit C – Articles of Incorporation	Page 31
Exhibit D – Bylaws	Page 37

STAFF COMMENTS AND RECOMMENDATIONS

This is a request by ISU to approve the creation of an Intellectual Property Foundation, the purpose of which is “to support the education, research, and public service functions of the University through commercializing intellectual property created by the University.” Creation of this nonprofit corporation will also allow the IPF to take an equity position in an entity (e.g. small company or start-ups) as partial consideration for invention licensing. The Operating Agreement stipulates, however, that the IPF will only take a minority ownership position in companies in order to limit possible exposure to liability. The Operating Agreement is modeled after the applicable provisions of the State Board’s Gifts and Affiliated Foundations policy V.E., and includes a clause that the Agreement shall be submitted to the State Board for review and approval at least every three years.

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With regard to start-up costs associated with the operations of IPF, the operating agreement provides the ISU may provide administrative services and facilities to IPF “for reasonable consideration” and “may, from time to time, transfer funds to the University as part of IPF’s mission in support of the University.” Any transferred funds would be considered “a line of credit that the IPF will be contractually required to repay, after it becomes self-supporting....” The Operating Agreement does not indicate whether interest will be charged to the IPF on the line of credit, nor does the agreement provide a date by which the IPF must achieve self-sufficiency. Nevertheless, staff believes the agreement contains adequate controls by providing that “proposed funding requirements for the IPF will be determined on an annual basis as part of the operating budget process, but presented to the State Board for approval in a separate review.”

Staff has had extensive discussions with ISU counsel and vice president for research, having thoroughly reviewed several iterations of the proposal over the past six months. Material concerns and suggestions from staff have been addressed by ISU in this version of the proposal before the Board.

Staff finds that the IPF is in compliance with ISU’s proposed IP policy, the latter having been submitted for concurrent review by the Board as a separate agenda item.

Staff recommends approval.

BOARD ACTION

I move to approve the request by Idaho State University to participate in the formation of the Idaho State University Intellectual Property Foundation and to enter into the proposed Operating Agreement (which includes as exhibits draft forms of the Loaned Employee Agreement, Services Agreement, Articles of Incorporation and Bylaws) in substantial conformance with the documents submitted to the Board in Attachment 1.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

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**OPERATING
AGREEMENT BETWEEN
IDAHO STATE UNIVERSITY
AND
IDAHO STATE UNIVERSITY INTELLECTUAL PROPERTY
FOUNDATION, INC.**

This agreement ("Operating Agreement") is entered into effective as of the ____ day of _____, 2014, by and between Idaho State University ("University") and Idaho State University Intellectual Property Foundation, Inc. ("IPF"). The University and IPF are sometimes collectively referred to herein separately as a "Party" and collectively as the "Parties."

WHEREAS, IPF is a nonprofit corporation incorporated on _____, pursuant to the Idaho Nonprofit Corporation Act;

WHEREAS, IPF will become a tax-exempt entity under Section 501(c)(3) of the Internal Revenue Code;

WHEREAS, IPF's purpose and mission is to support the education, research, and public service functions of the University;

WHEREAS, IPF and the University desire to set forth in writing various aspects of their relationship with respect to IPF's commercialization of ISU technology;

WHEREAS, the Idaho State Board of Education (collectively the "State Board") has promulgated Policies, Procedures, and Guidelines applicable to the commercialization of University intellectual property (these policies, procedures, and guidelines as currently constituted and the successor policies, procedures, and guidelines thereto are referred to herein collectively as "State Board Policies and Procedures");

WHEREAS, IPF and the University intend for this agreement to be the written operating agreement required by the State Board.

NOW THEREFORE, in consideration of the mutual covenants and undertakings herein, the University and IPF hereby agree as follows:

ARTICLE I

IPF'S PURPOSES

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A. IPF's purpose is to support the education, research, and public service functions of the University through commercializing intellectual property created by the University.

B. In carrying out its purpose IPF shall not engage in activities that conflict with (1) federal or state laws, rules and regulations (including, but not limited to all applicable provisions of the Internal Revenue Code and corresponding Federal Treasury Regulations); (2) applicable State Board Policies and Procedures; and/or (3) the role and mission of the University.

C. The IPF will always keep in mind the fact that it is organized to support and further the interests of the University and will, as it pursues the commercialization of intellectual property, take steps to protect the University from legal exposure and risk to its reputation.

D. The IPF Board of Directors shall keep operating costs to a minimum and ensure that ISU's research and educational mission and ISU's best interests are paramount in their decision making process.

ARTICLE II

**IPF'S ORGANIZATIONAL
DOCUMENTS**

IPF shall provide copies of its Articles of Incorporation and Bylaws to the University. IPF shall not amend or revoke its Articles of Incorporation or Bylaws without the written approval of the University and the State Board of Education.

ARTICLE III

UNIVERSITY RESOURCES AND SERVICES

A. University Employees.

1. Liaison: The University's Vice President for Research and Economic Development shall serve as the University's liaison to IPF (the "Liaison"). The duties and responsibilities of the Liaison are as follows:

a. The Liaison shall be responsible for communicating with IPF regarding the University's activities and programs relevant to IPF's mission and for coordinating any administrative support provided by the University to IPF.

b. The Liaison shall report on behalf of the University to IPF's Board of Directors regarding the University's research efforts with regard to IPF. The Liaison may also report other information to IPF's Board of Directors that is pertinent to the common goals of the University and IPF.

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2. The University and IPF may elect to enter into agreements for the loaning of employees to IPF by the University pursuant to terms substantially similar to the Loaned Employee Agreement attached as Exhibit "A." Subject to the Loaned Employee Agreement, the loaned employees shall report to the IPF Board and the Executive Director of IPF. IPF will reimburse the University for the salary of the loaned employee pursuant to the Loaned Employee Agreement or as otherwise determined by the agreement of the Parties.

3. **Limited Authority of University Employees.** Notwithstanding the foregoing provisions, no University employee other than an employee loaned to IPF shall be permitted to have responsibility or authority for IPF policy making, financial oversight, spending authority, investment decisions, or the supervision of IPF employees, provided however University employees appointed to the IPF Board of Directors shall have authority to act as such within the laws of the state of Idaho governing conflicts of state officials as well as the policies of the IPF Board of Directors regarding conflicts.

4. **IPF Executive Director.** The IPF Executive Director shall be an employee of the IPF and shall not be a loaned employee of the University.

B. Support Staff Services and Facilities. The University may provide administrative support in financial, accounting, and research compliance services to IPF and the use of the University's office space and other facilities as set forth in the Service Agreement attached hereto as Exhibit "B" ("Service Agreement"). Except as specifically provided otherwise herein, all University employees who provide support services to IPF shall remain University employees under the direction and control of the University, unless it is agreed that the direction and control of any such employee will be vested with IPF in a Loaned Employee Agreement. The IPF will pay the University for the services and facilities provided to IPF pursuant to the Service Agreement or as otherwise determined by the agreement of the Parties.

C. No IPF Payments to University Employees. Notwithstanding any provision of this Agreement to the contrary, IPF shall not make any payments directly to a University employee in connection with any resources or services provided to IPF pursuant to this Article, provided however, nothing in this paragraph C shall limit or prohibit formal joint appointments of employees between the University and IPF under which IPF pays the percentage of salary and employee benefits allocated to IPF under the joint appointment agreement.

ARTICLE IV

MANAGEMENT AND OPERATION OF IPF

A. Grants. IPF may apply for grants and contracts, such as, without limitation, Small Business Innovation Research grants. However, IPF will not apply for

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any grants without the prior approval of the University's Vice President for Research and Economic Development. IPF will not directly conduct research activities though it may contract with the University or other entities for the University or other entities to provide research services. All contracts to which the IPF is a party shall provide that IPF is an entity distinct and separate from the University.

B. Focus on Technology Transfer. The IPF will abide by State Board Policies and Procedures, applicable University policies, and state and federal law and act only in a manner consistent with the same. In particular, in pursuing commercialization of University technology, IPF will act in a manner consistent with the University's overarching goal of delivering useful products to the public. The IPF will pursue commercialization of University technology in a manner that encourages commercialization rather than generating revenue primarily through threats of patent infringement litigation ("patent trolls") or "flipping" technology. The IPF will carefully review the State Board Policies and Procedures, which provide detailed directions on these issues, and act only in a manner consistent therewith.

C. Fund Transfers and Charitable Fundraising.

1. IPF may, from time to time, transfer funds to the University as part of IPF's mission in support of the University. The University may direct IPF to transfer such funds to the Idaho State University Foundation, Inc., in which case such funds will be subject to Idaho State University Foundation, Inc. policies and procedures. IPF's Treasurer or other individual to whom such authority has been delegated by IPF's Board of Directors shall be responsible for transferring funds as authorized by IPF's Board of Directors. All transfers and expenditures described in this Section must comply with section 501(c)(3) of the Internal Revenue Code and be consistent with IPF's mission to support of the University.

2. Charitable Fundraising. IPF will not solicit for the donation of charitable contributions to be held by IPF. If a donor approaches IPF with the intention of making a charitable contribution to IPF, IPF will instruct such donor to contribute such funds to the Idaho State University Foundation, Inc.

D. IPF Contracts, Expenditures, and Financial Transactions.

1. Signature Authority for Contracts. The IPF Board of Directors may grant to IPF personnel signature authority for contracts to which IPF is a party pursuant to IPF's bylaws. The IPF shall notify the University in writing of those parties given signature authority.

2. IPF designates the IPF Chair and Treasurer as the individuals with signature authority for IPF in all financial transactions. IPF's Treasurer may also delegate signature authority on a temporary basis consistent with IPF's Bylaws to another IPF employee, an employee loaned to IPF, or an IPF Board member who is not a University employee. In no event may the person with IPF signature authority for

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financial transactions be a University employee, unless such individual is an employee who is loaned to IPF.

3. Expenditures. All expenditures of IPF shall be consistent with the purposes of IPF and applicable laws, contracts, and grants as the case may be.

E. Transfer of University Financial Assets to IPF. The University may transfer funds to the IPF until it becomes self-supporting to aid the IPF in pursuing its purpose and to allow it to fulfill its responsibilities hereunder. Proposed funding requirements for the IPF will be determined on an annual basis as part of the operating budget process, but presented to the State Board for approval in a separate review. These funding transfers will constitute a line of credit that the IPF will be contractually required to repay, after it becomes self-supporting and on a schedule as proposed by the University and approved by the State Board in the annual review.

F. Transfer of University Intellectual Property to the IPF. The University may transfer intellectual property to the IPF. All such transfers of intellectual property will be made pursuant to State Board Policies and Procedures, University policy, and state and federal law. Such transfers shall be made pursuant to a written agreement detailing the financial arrangement between the Parties applicable to the intellectual property transferred.

G. Separation of Funds. All IPF assets (including bank and investment accounts) shall be held in separate accounts in the name of IPF using IPF's Federal Employer Identification Number. The financial records of IPF shall be kept using a separate chart of accounts and shall be kept in a secured database that is protected by separate password-only access.

H. Insurance. IPF shall maintain insurance to cover the operations and activities of its Directors, Officers and employees. IPF shall also maintain general liability coverage.

I. Organizational Documents. IPF's Articles of Incorporation are attached hereto as Exhibit "C" and IPF's Bylaws, which are attached at Exhibit "D." IPF agrees to provide copies of such Articles and Bylaws as well as any subsequent amendments to such documents to the University immediately upon request. IPF agrees that its Articles of Incorporation and Bylaws shall not be amended or revoked without the written approval of the University and State Board of Education.

J. Conflicts of Interest. IPF, in its bylaws has adopted a written policy addressing the manner IPF will address conflict of interest situations.

K. Equity Positions and Cash Investments. IPF is prohibited from taking majority ownership positions in companies and will not be involved in the operations of any company in which it holds equity. IPF shall not use funds that it receives from the University to make a cash investment in any company in return for equity.

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L. **Lease or Purchase of Real Property.** IPF may lease or purchase real property only if such lease or purchase is consistent with IPF's purposes and obligations as described herein.

ARTICLE V

IPF'S RELATIONSHIP WITH THE UNIVERSITY

A. **Joint Participation.** The parties hereto recognize that joint participation and regular interaction among employees of both IPF and University is beneficial and encouraged. This may include service on committees, councils, review Boards and/or other activities identified by either party for the mutual benefit and interest of both parties.

B. **University's Representation on IPF's Board.** The University will be allowed representation on IPF's Board of Directors as set forth in the Bylaws as attached hereto. Provided, however, the University's representation on the IPF Board shall not constitute a majority of the IPF Board.

C. **Executive Director Reporting.** The IPF Executive Director shall act under the supervision of and report to the IPF Board subject to any applicable Loaned Employee Agreement.

D. **Cost Recovery.** The parties shall allocate costs associated with reciprocative operations in a fair and equitable manner so that the full and independent costs of such operations can be recovered by the respective parties.

E. **Export Control.** IPF shall be responsible for all matters pertaining to export controls.

F. **Subsequent Agreements.** The parties hereto anticipate that they may enter into subsequent written agreements on a project by project basis setting forth the parties' respective duties and obligations in regard to such projects. As such, the parties hereto acknowledge and agree that any such agreement shall govern for the purpose of any such specified project. Provided, however, that if there is a conflict between the terms of the Operating Agreement and the terms of a subsequent agreement, the terms of the Operating Agreement will be controlling and supersede any inconsistent terms in the subsequent agreement.

G. **Access to Records.** The University shall have reasonable access to the financial and accounting records of IPF upon providing three (3) days written notice to IPF. All access by the University of such records shall be made in accordance with applicable laws. In addition, upon request of IPF, the University shall execute a proprietary and confidentiality agreement and instruct its agents and employees that all confidential information of IPF shall be protected from disclosure.

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H. Records Management.

1. IPF shall be responsible for maintaining all permanent records of IPF including but not limited to IPF's Articles, Bylaws and other governing documents, all necessary documents for compliance with IRS regulations, and all other IPF records as required by applicable laws.

2. IPF's Board of Directors shall foster an atmosphere of openness in its operations, consistent with the prudent conduct of its business. The parties understand that IPF is not a public agency or a governing body as defined in the Idaho Code and the Idaho Open Meeting Law and Access to Public Records statutes. Nothing in this Operating Agreement shall be construed as a waiver of IPF's right to assert exemption from these statutes.

I. **Identification of Source.** IPF shall be clearly identified as the source of any correspondence, activities and advertisements emanating from IPF.

J. **Establishing IPF's Annual Budget.** IPF shall provide the University with IPF's proposed annual operating budget and capital expenditure plan (if any) prior to the date of IPF's Board of Directors meeting at which IPF's Board of Directors will vote to accept such operating budget.

K. **Attendance of the University's President at IPF's Board of Director Meetings.** IPF may invite the University's President to attend meetings of IPF's Board of Directors and the University's President may act in an advisory capacity in such meetings. The University's President may serve as an Ex-Officio member of IPF's Board of Directors.

L. **Supplemental Compensation of University Employees.** No University employee shall receive direct payments, compensation, or other benefits from IPF, provided that IPF may pay for those benefits which are necessary for its normal course of operation, including, but not limited to, travel and continuing professional education. Any such payment must be paid by IPF to the University and the University shall then pay or reimburse the employee in accordance with the University's normal practice. No University employee shall receive any payments or other benefits directly from IPF. Provided however, nothing in this sub-section shall limit or prohibit formal joint appointments of employees between the University and IPF under which IPF pays the percentage of salary and employee benefits allocated to IPF under the joint appointment agreement.

ARTICLE VI

AUDITS AND REPORTING REQUIREMENTS

A. **Fiscal Year.** IPF and the University shall have the same fiscal year.

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B. **Annual Audit.** IPF shall have an annual financial audit conducted in accordance with Government Accounting Standards Board or Financial Accounting Standards Board principles as appropriate. The audit shall be conducted by an independent certified public accountant who is not a Director or Officer of IPF. Such audit shall be conducted at the same or similar time as the University audit and shall be reported to IPF's Board of Directors. Such audit reports shall contain IPF's financial statements and the auditor's independent opinion regarding such financial statements. The annual audit reports shall be submitted to the University's Office of Finance and Administration in sufficient time to incorporate the same into the State of Idaho's Comprehensive Annual Financial Review statements.

C. **Reports to University Vice President for Research and Economic Development.** On an annual basis and as otherwise requested by the University, IPF shall provide a written report to the University Vice President for Research and Economic Development (with a copy to the University Vice President for Finance and Administration) setting forth the following items:

1. a report of IPF transfers made to the University, summarized by University department;
2. a list of all of IPF's Officers, Directors, and employees;
3. a list of University employees for whom IPF made payments to the University for approved purpose during the fiscal year, and the amount and nature of each payment;
4. a list of all contracts entered into by IPF;
5. a quarterly report of IPF's activities and strategic direction; and
6. a report of any actual litigation involving IPF during its fiscal year, identification of legal counsel used by IPF for any purpose during such year, and identification of any potential or threatened litigation involving IPF limited to the extent necessary to protect attorney-client privilege and litigation strategy.

ARTICLE VII

CONFLICT OF INTEREST AND CODE OF ETHICS AND CONDUCT

A. **Conflicts of Interest Policy Statement.** IPF, in its bylaws has adopted a written policy addressing the manner IPF will address conflict of interest situations.

B. **Dual Representation.** Under no circumstances may a University employee represent both the University and IPF in any negotiation, sign for both Parties in transactions, or direct any other University employee under their immediate

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supervision to sign for the related Party in a transaction between the University and IPF. This shall not, however, prohibit University employees from drafting transactional documents that are subsequently provided to IPF for IPF's independent review, approval and use.

C. **Contractual Obligation of University.** IPF shall not enter into any contract that would impose a financial or contractual obligation on the University without first obtaining the prior written approval of the University. If such contract deals primarily with technology transfer or sponsored programs, the contract approval process shall be administered under procedures developed by the University Office for Research and Economic Development.

D. **Acquisition or Development or Real Estate.** IPF shall not acquire or develop real estate for the University's use or otherwise build facilities for the University's use unless the University first obtains the approval of the State Board. In the event of a proposed purchase of real estate for such purposes by IPF, the University shall notify the State Board, at the earliest possible date, of such proposed purchase for such purposes. Furthermore, any such proposed purchase of real estate for the University's use shall be a coordinated effort of the University and IPF. Any notification by the University to the State Board required pursuant to this Section may be made through the State Board's chief executive Officer in executive session as permitted pursuant to Idaho Code Section 67-2345(1)(c).

ARTICLE VIII

GENERAL TERMS

A. **Effective Date.** This Agreement shall be effective on the date set forth above.

B. **Right to Terminate.** This Operating Agreement shall terminate upon the mutual written agreement of both Parties. In addition, either Party may, upon 90 days prior written notice to the other, terminate this Operating Agreement, and either Party may terminate this Operating Agreement in the event the other Party defaults in the performance of its obligations and fails to cure the default within 30 days after receiving written notice from the non-defaulting Party specifying the nature of the default. Notwithstanding any other provision herein, if either party terminates this Operating Agreement, contractual obligations with third parties incurred by IPF will be transferred to the University to the extent allowed by law and Idaho State Board of Education policy. The Parties agree that in the event this Operating Agreement shall terminate, they shall cooperate with one another in good faith to negotiate a new agreement within six (6) months. In the event negotiations fail, the Parties will initiate the Dispute Resolution mechanism described below to further attempt to negotiate a new agreement. Termination of this Operating Agreement shall not constitute or cause dissolution of IPF, provided however, in the event a new operating agreement is not achieved upon completion of the dispute resolution process, the association between

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IPF and the University will be ended, and IPF will cease all references to Idaho State University in its name and with respect to its operations other than as is necessary to complete projects or contracts pending as of the final date of the dispute resolution process.

C. **Dispute Resolution.** The Parties agree that in the event of any dispute arising from this Operating Agreement, they shall first attempt to resolve the dispute by working together with the appropriate staff members of each of the Parties. If the staff cannot resolve the dispute, then the dispute will be referred to IPF's Chair and the University's President. If IPF's Chair and the University's President cannot resolve the dispute, then the dispute will be referred to IPF's Chair and the State Board for resolution. If the dispute is not resolved by the aforementioned Parties, the University and IPF shall submit the dispute to mediation by an impartial third party or professional mediator mutually acceptable to the Parties. If and only if all the above mandatory steps are followed in sequence and the dispute remains unresolved, then, in such case, either Party shall have the right to initiate litigation arising from this Operating Agreement. In the event of litigation, the prevailing Party shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs, attorney fees, and other professional expenses.

D. **Distribution of Assets upon Termination of Agreement or Dissolution of IPF.** Upon termination of this Agreement or dissolution of IPF, whichever first occurs, IPF shall transfer the balance of all property, intellectual property, and assets of IPF to the University or an organization designated by the University. This will be done in a manner consistent with its Articles of Incorporation, which state that "upon dissolution or final liquidation, the assets of the Corporation remaining after discharge of the debts and obligations of the Corporation shall be distributed exclusively to Idaho State University or to such other charitable, scientific, literary, or educational organizations designated by Idaho State University that are tax exempt under Internal Revenue Code §501(c)(3)."

E. **Board Approval of Operating Agreement.** Prior to the Parties' execution of this Operating Agreement, an unexecuted copy of this Operating Agreement must be approved by the State Board. Furthermore, this Operating Agreement, including any subsequent modifications and restatements of this Operating Agreement, shall be submitted to the State Board for review and approval no less frequently than once every three (3) years or more frequently if otherwise requested by the State Board.

F. **Modification.** Any modification to the Agreement or Exhibits hereto shall be in writing and signed by both Parties.

G. **Providing Documents to and Obtaining Approval from the University.** Unless otherwise indicated herein, whenever documents are to be provided to the University or whenever the University's approval of any action is required, such documents shall be provided to, or such approval shall be obtained from

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an individual to whom such authority has been properly delegated by the University's President.

H. **Providing Documents to and Obtaining Approval from IPF.** Unless otherwise indicated herein, whenever documents are to be provided to IPF or whenever IPF's approval of any action is required, such document shall be provided to, or such approval shall be obtained from, IPF's Board of Directors or an individual to whom such authority has been properly delegated by IPF's Board of Directors.

I. **Notices.** Any notices required under this agreement may be mailed or delivered as follows:

To the University:

Idaho State University
Attn: Vice President for Research and Economic Development
921 South 8th Avenue, Stop _____
Pocatello, Idaho 83209

With copy to:

Idaho State University
Attn: Idaho State University President
921 South 8th Avenue, Stop _____
Pocatello, Idaho 83209

Idaho State University
Office of General Counsel
Attn: General Counsel
921 South 8th Avenue, Stop 8410
Pocatello, Idaho 83209

To IPF:

IPF

J. **No Joint Venture.** At all times and for all purposes of this Operating Agreement, the University and IPF shall act in an independent capacity and not as an agent or representative of the other Party.

K. **Liability.** The University and IPF are independent entities and neither shall be liable for any of the other's contracts, torts, or other acts or omissions, or those of the other's trustees, Directors, Officers, members or employees.

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L. **Indemnification.** IPF agrees to indemnify, defend and hold the University, its Officers, Directors, agents and employees harmless from and against any and all losses, liabilities, and claims, including reasonable attorney's fees arising out of or resulting from the willful act, fault, omission, or negligence of IPF, its employees, contractors, or agents in performing its obligations under this Operating Agreement.

M. **Assignment.** This Agreement is not assignable by either Party, in whole or in part.

N. **Governing Law.** This Agreement shall be governed by the laws of the State of Idaho.

O. **Articles, Sections, Subsections and Subparagraphs.** This Agreement consists of text divided into Articles that are identified by roman numeral (for example Article I), Sections that are identified by an uppercase letter followed by a period (for example A.), subsections that are identified by a number followed by a period (for example 1.) and subparagraphs that are identified by a lower case letter followed by a period (for example a.). The organization is hierarchical meaning that a reference to a division of the document includes all of its subsections (for example a reference to a Section includes the Section and all of its subsections and subparagraphs).

P. **Severability.** If any provision of this Agreement is held invalid or unenforceable to any extent, the remainder of this Agreement is not affected thereby and that provision shall be enforced to the greatest extent permitted by law.

Q. **Entire Agreement.** This Agreement constitutes the entire agreement among the Parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto.

R. **Cooperation of the Parties.** The parties hereto agree to do all acts and things necessary to make, execute and deliver any and all written instruments as shall from time to time be reasonably required to carry out the terms and conditions of this Agreement.

[The remainder of this page is intentionally left blank.]

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IN WITNESS WHEREOF, the University and IPF have executed this agreement on the above specified date.

IDAHO STATE UNIVERSITY

By: _____
Its _____

IPF

By: _____
Its _____

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EXHIBIT A

FORM OF LOANED EMPLOYEE AGREEMENT

AGREEMENT FOR LOANED EMPLOYEE

This Agreement for Loaned Employee (Agreement) is entered into by and between IDAHO STATE UNIVERSITY, an Idaho institution of higher education and body politic and corporate, and the Idaho State University Intellectual Property Foundation, Inc. (IPF), an Idaho non-profit Corporation, and is effective the ____ day of _____, 2014.

BACKGROUND

- A. IPF has asked the University to make certain university employees available to IPF for fulfilling various operational requirements of IPF.
- B. University has agreed to loan its employee _____ (Loaned Employee) to IPF to act in the capacity of _____ for IPF pursuant to the terms of this Agreement.

AGREEMENT

The parties agree as follows:

- 1. **Relationship between Loaned Employee and University.**
 - a. **Status.** At all times under this Agreement, Loaned Employee shall be an [****classified or exempt****] [****fiscal or academic****] year employee of the University subject to all applicable policies and procedures of the University and the State Board of Education. IPF shall have control over all aspects of Loaned Employee's day to day work and Loaned Employee shall devote 100% of his or her working time to performing services for IPF. Notwithstanding the foregoing, IPF may discipline the Loaned Employee for cause, which may include taking action up to and including termination of this Agreement, such discipline and determination of cause to be in accordance with IPF policies and procedures and applicable law. The parties acknowledge that University and Loaned Employee have agreed and acknowledged that Loaned Employee's contract with the University is contingent upon continuation of this Agreement and in the event this Agreement is terminated Loaned Employee's contract with the University will also terminate. Loaned Employee will be considered a loaned employee under the worker's compensation law of the State of Idaho.

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- b. **Compensation.** University shall pay Loaned Employee a [****fiscal or academic****] year salary rate of \$_____, payable on the regular bi-weekly paydays of the University and subject to adjustment in accordance with the University's regular policies and procedures. Loaned Employee will be entitled to University benefits to the same extent and on the same terms as other full-time University employees of her/his classification. IPF shall pay University for this cost as provided in Section 3 below.
 - c. **Travel Expenses.** University shall reimburse directly to Loaned Employee costs incurred for IPF travel that is approved in advance by IPF or the University. IPF shall pay University for this cost as provided in Section 3 below.
 - d. **No Prohibition on Leasing Employee to IPF.** University represents and warrants to IPF that there is no agreement with Loaned Employee nor any University policy of procedure (including, without limitation, any agreement, policy, or rule of the State Board of Education or the University) that prohibits the University from leasing Loaned Employee to IPF pursuant to the terms of this Agreement. University further represents and warrants that Loaned Employee is eligible for benefits as a full-time leased employee under the term of all applicable University benefit plans.
2. **Relationship between IPF and Loaned Employee.**
- a. **Supervision.** Loaned Employee will work under the supervision and direction of, and will report directly to, the IPF Executive Director or their designee, who shall determine their duties to perform work for IPF.
 - b. **Performance Evaluations.** IPF will evaluate the performance of Loaned Employee on an annual basis at a time consistent with the annual reviews of exempt employees at the University. IPF will provide University with a copy of any written documentation regarding the evaluation within fourteen (14) days after the evaluation is complete.
3. **Relationship between IPF and University.**
- a. **Lease of Loaned Employee.** During the term of this Agreement, so long as Loaned Employee is employed by University, University shall make available to IPF the full time services of Loaned Employee, subject to University's continued employment of Loaned Employee. The furnishing of Loaned Employee shall not be considered a professional service of the University to IPF, nor shall University be considered a contractor of IPF.
 - b. **University to Provide Salary and Benefits.** As indicated above, University shall provide Loaned Employee with a [****fiscal or academic****] year salary rate of \$_____ and other University benefits to the

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same extent and on the same terms as other full-time University employees of her/his classification. University shall be responsible for all facets of payroll and benefits administration with respect to Loaned Employee, including, without limitation, withholding and payment of payroll taxes, unemployment compensation, worker's compensation coverage, social security, and providing any fringe and welfare benefit programs for Loaned Employee.

- c. **Reimbursement of Salary and Benefits by IPF.** IPF will reimburse University for one hundred percent (100%) of the University's total cost of Loaned Employee's salary and benefits and any reimbursable costs such as travel expenses. University shall maintain accurate books and account records reflecting the actual cost of all items of direct cost for which payment is sought under this Agreement. At all reasonable times, IPF shall have the right to inspect and copy said books and records, which the University agrees to retain for a minimum period of five (5) years following the termination of this Agreement.

- d. **Review of Loaned Employee's Status/Discipline/Termination for Cause.** Loaned Employee shall at all times remain an employee of University. Accordingly, University shall have the power to evaluate, discipline, and terminate Loaned Employee in its discretion and in accordance with any of its policies, procedures, or agreements between University and Loaned Employee. As provided above, IPF will conduct an annual review of Loaned Employee. IPF will provide a copy of any documents related to its evaluation to the University no later than fourteen (14) days after the evaluation is completed. Based on its annual review of Loaned Employee's performance, IPF may discipline the Loaned Employee for cause, which may include taking action up to and including termination of this Agreement, such discipline and determination of cause to be in accordance with IPF policies and procedures and applicable law. If IPF makes such a determination, IPF shall provide notice to the University that it will no longer lease the services of Loaned Employee effective as of the date specified in the notice with a reasonable amount of detail as to the reason IPF is discontinuing the services of Loaned Employee.

- e. **Indemnification by IPF for Acts of Loaned Employee.** University shall have no liability to IPF for loss or damage directly resulting from the fault, negligence, misconduct, or other acts of the Loaned Employee while Loaned Employee is performing activities on behalf of or at the direction of IPF. IPF therefore agrees to release, defend, indemnify and hold harmless the state of Idaho, University, its governing Board, Officers, employees, and agents from and against any and all claims, demands, losses, damages, costs, expenses, and liabilities for injuries (including death) to persons and for damages to property (including damage to property of IPF

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or others) arising out of or in connection with the activities of the Loaned Employee performed on behalf of or at the direction of IPF. Notwithstanding the foregoing, both parties may maintain any liability insurance coverage as it shall deem appropriate with respect to liabilities arising out of the acts or omissions of Loaned Employee.

- f. **Compliance with Employment Discrimination Laws.** IPF agrees to comply with all laws regarding employment discrimination, including, without limitation, the Americans with Disabilities Act, Age Discrimination in Employment Act, Title VII of the Civil Rights Act, the Equal Pay Act, and the Idaho Human Rights Act with respect to Loaned Employee as if Loaned Employee were an employee of IPF. IPF shall notify University within five (5) days of any claim by Loaned Employee alleging a violation of any laws relating to employment discrimination. IPF shall indemnify, defend, and hold University harmless from any claims or losses resulting from IPF's failure to comply with any applicable employment discrimination laws.

4. General Terms.

- a. **Term, Termination.** The term that University shall lease Loaned Employee to IPF shall extend to _____, which is the term of employment specified in Loaned Employee's contract as an employee of the University, unless it is terminated earlier upon the occurrence of any of the following:
- i. **Notice to University Due to Loaned Employee Performance Problems.** Pursuant to Section 3 above, IPF may discipline Loaned Employee by taking action up to and including termination of this Agreement for cause based on its annual review of Loaned Employee's performance or any interim review or concerns regarding Loaned Employee's performance. If IPF makes such a determination, IPF shall provide notice to the University that it will no longer lease the services of Loaned Employee effective as of the date specified in the notice with a reasonable amount of detail as to the reason IPF is discontinuing the services of Loaned Employee.
 - ii. **Termination in the Event of Default.** Either party may terminate the lease of Loaned Employee by University to IPF upon the material default of the other's performance provided that the non-defaulting party first provides the other with at least ten (10) days notice of the default and an opportunity to cure such default within the notice period.

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- iii. Discontinued Employment of Loaned Employee by University. The lease of Loaned Employee to IPF shall automatically terminate if Loaned Employee is no longer an employee of University for any reason.

The parties may extend the term of this Agreement at any time upon mutual agreement for a new term that is equal to the term of the Loaned Employee's renewed employment contract with the University, if any. IPF is under no obligation to extend the term of this Agreement for a new term, however, (in order to be consistent with the University policies which call for at least 60 days notice if the University will not renew the Loaned Employee's employment agreement) in the event IPF determines that it will not agree to an extension of the term of this Agreement, IPF will give University notice of its intention not to extend the term of this Agreement at least 60 days prior to the expiration of the term of this Agreement.

- b. **No Third Party Beneficiaries.** The parties acknowledge that there are no intended third party beneficiaries of this Agreement. Without limiting the foregoing, this Agreement shall not be construed as a promise of continuing employment to Loaned Employee, who remains subject to all applicable State Board of Education and University policies, including but not limited to policies regarding nonrenewal of fixed term appointments and termination or discipline.
- c. **Governing Law.** This Agreement will be governed by the laws of the State of Idaho as an agreement to be performed within the State of Idaho. The venue for any legal action under this Agreement shall be in Bannock County, Idaho.
- d. **Notice.** Any notice under this Agreement shall be in writing and be delivered in person or by public or private courier service (including U.S. Postal Service Express Mail) or certified mail with return receipt requested, or by facsimile. All notices shall be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

To IPF:

Idaho State University Intellectual Property Foundation, Inc.
Attn: Executive Director

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To University:

Idaho State University
Attn: Vice President for Research and Economic Development
921 South 8th Avenue, Stop 8130
Pocatello, Idaho 83209

With copy to:

Idaho State University
Office of General Counsel
Attn: General Counsel
921 South 8th Avenue, Stop 8410
Pocatello, Idaho 83209

Notice shall be deemed given on its date of mailing, faxing, or upon written acknowledgment of its receipt by personal delivery, whichever shall be earlier.

- e. **Waiver.** Waiver by either party of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition, or any subsequent breach of the same or any other term, covenant or condition herein contained.
- f. **Attorney's Fees.** In the event an action is brought to enforce any of the terms, covenants or conditions of this Agreement, or in the event this Agreement is placed with an attorney for collection or enforcement, the successful party to such action or collection shall be entitled to recover from the losing party a reasonable attorney's fee, together with such other costs as may be authorized by law.
- g. **Assignment.** Neither party shall assign this Agreement with the prior written consent of the other.
- h. **Amendments.** This Agreement may not be modified or amended except by an agreement in writing signed by both of the parties.
- i. **Acknowledgement by Employee.** This Agreement shall not be effective until it is executed by University and IPF and acknowledged by Loaned Employee pursuant to the signature blocks below.

[The remainder of this page is intentionally left blank.]

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The parties have executed this Agreement effective as of the date set forth above.

IDAHO STATE UNIVERSITY

By: _____
Its _____

IPF

By: _____
Its _____

Acknowledgment by Loaned Employee:

Loaned Employee, by their signature below, acknowledges the terms of this Agreement between University and IPF and agrees that they are an employee of the University that are loaned to IPF pursuant to the terms of this Agreement. Loaned Employee further acknowledges that they are a "loaned employee" pursuant to all state workers compensation laws. Accordingly, Loaned Employee acknowledges and agrees that in the event of any work-related injury that is covered by workers compensation insurance held for the benefit of Loaned Employee by University. Loaned Employee will be precluded from recovering damages from IPF for such injury in accordance with applicable state workers compensation laws.

Print name: _____
Dated: _____

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EXHIBIT B

FORM OF SERVICE AGREEMENT

SERVICES AGREEMENT

THIS SERVICES AGREEMENT (Agreement) is entered into by and between IDAHO STATE UNIVERSITY, a state educational institution, and a body politic and corporate organized and existing under the Constitution and laws of the state of Idaho ("University"), and IDAHO STATE UNIVERSITY INTELLECTUAL PROPERTY FOUNDATION, INC., an Idaho non-profit Corporation ("IPF"), and shall be effective as of the _____ day of _____, 2014.

- A. The University agrees to provide to IPF the following administrative, financial, and accounting support services.
 - 1. Administrative support for IPF's general accounting and operations, including cash, receivables, and disbursement processing, preparation of financial statement and work papers for external audit, support for IPF Audit Committee, and support for IPF tax return filing.
 - 2. Administrative support for IPF through the University Human Resources Office, including payroll and benefits management.
 - 3. Support for matters pertaining to export controls.
- B. All University employees who provide support services to the IPF under this Agreement shall remain University employees under the direction and control of the University.
- C. The University will supply the facilities, equipment, software and operating supplies necessary for the University employees supplying the above support services to IPF, the nature and location of which shall be in the University's discretion. In addition, the University shall furnish office space and office equipment for use by employees loaned to IPF by the University, the nature and location of which shall be subject to agreement of the parties.
- D. IPF will pay directly to the University a reasonable consideration for the services, facilities, equipment, software and operating supplies provided to IPF pursuant to this Service Agreement.
- E. The Parties acknowledge that support services provided by the University to IPF hereunder are intended to continue only so long as is necessary for IPF to become a fully self-sufficient operational entity. As IPF gains in self-sufficiency,

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services provided hereunder may be assumed by IPF operations and discontinued by the University all as per the agreement of the Parties.

This Agreement shall be effective as of the date set forth above and shall continue in annual terms matched to the University's fiscal year until terminated by either party. This Agreement may be terminated by either party upon written notice of termination, such termination to be effective 30 days after notice thereof. This Agreement shall also terminate at the same time as any termination of the Operating Agreement between the University and the IPF dated _____, 2014. In the event of termination, all obligations of the parties hereto shall cease as of the date of termination except for obligations for payment or reimbursement which accrued prior to the date of termination.

IDAHO STATE UNIVERSITY

By: _____
Its _____

IPF

By: _____
Its _____

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EXHIBIT C

FORM OF ARTICLES OF INCORPORATION

**ARTICLES OF INCORPORATION
OF
IDAHO STATE UNIVERSITY INTELLECTUAL PROPERTY FOUNDATION, INC.**

The undersigned, being over the age of eighteen (18) years, and for the purpose of forming a nonprofit Corporation under the provisions of the Idaho Nonprofit Corporation Act, Title 30, Chapter 3 of the Idaho Code, hereby certifies and adopts the following Articles of Incorporation:

ARTICLE ONE

The name of the Corporation is the IDAHO STATE UNIVERSITY INTELLECTUAL PROPERTY FOUNDATION, INC. and its existence shall be perpetual.

ARTICLE TWO

The address of the registered office of the Corporation in the state of Idaho is _____ and the name of the registered agent at that address is _____.

ARTICLE THREE

The name and mailing address of the incorporator of the Corporation is _____.

ARTICLE FOUR

1. The Corporation is formed for scientific, educational, and charitable purposes for the benefit of the University and, subject thereto, for the purpose of engaging in any lawful act for which a nonprofit Corporation may be organized under Title 30, Chapter 3 of the Idaho Code and under Section 501(c)(3) of the Internal Revenue Code, which include but are not otherwise limited to the following:
 - i. Acquiring and disseminating knowledge, supporting the education, research, and public service functions of the Idaho State University.
 - ii. Executing, administering, letting and performing any and all contracts, subcontracts and agreements desirable and proper in order to perform and complete the activities of the Corporation including, without

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- limitation, contracts and agreements with Idaho State University and other entities.
- iii. Acquiring facilities by lease, purchase, or otherwise, and operating such as may be desirable in order to carry out the charitable, scientific, literary, research, educational, and service programs both of the Corporation and the University.
 - iv. Receiving real and personal property from public and private sources, receiving grants and other monies from agencies of the United States, grants, contributions and endowments from foundations, public and private corporations, and the general public, without limitation.
 - v. Employing personnel and engaging contractors and consultants in order to accomplish the purposes of the Corporation.
 - vi. Using and/or applying the whole, or any part of, the resources generated by the Corporation exclusively for charitable, scientific, literary, or educational purposes to benefit the Corporation and the University.
2. Stock will not be issued. If and when the Corporation is dissolved, its assets will be distributed pursuant to the provisions of Article Ten. None of the assets will be distributed to private individuals.
 3. The Corporation will not have members.

ARTICLE FIVE

The Corporation will seek a federal tax exemption as defined under Internal Revenue Code § 501(c)(3). If the Corporation is granted tax-exempt status, it will take those steps required to retain tax exempt status and will refrain from activities forbidden by Internal Revenue Code § 501(c)(3).

ARTICLE SIX

At all times, the Corporation's investments and investment policy will be consistent with its nonprofit purpose, and income and assets will be generated only to carry out its nonprofit purposes.

ARTICLE SEVEN

1. The number of Directors of this Corporation shall be fixed in the Bylaws and may be changed from time to time by amending the Bylaws.

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2. The Corporation shall have Officers as provided in the Bylaws. Such Officers shall be elected or appointed by the Directors of the Corporation at such time and in such manner and for such terms as may be prescribed in the Bylaws. The Officers and Directors of the Corporation will not be personally liable for the Corporation's debts and liabilities and their personal property is exempt from seizure or levy to pay obligations of the Corporation.

3. The powers of the Corporation will include all powers granted by the state of Idaho to nonprofit Corporation's including those set forth pursuant to Title 30, Chapter 3 of the Idaho Code. In addition, the Corporation's powers shall include the following, to the extent not prohibited by the state of Idaho or federal law:
 - a. To solicit, collect, receive, hold, invest, distribute, and disburse funds in the form of donations, gifts, bequests, and subscription;

 - b. The power to accept gifts from individuals, corporations and foundations in furtherance of the Corporation's nonprofit purposes; and

 - c. To borrow funds with or without security, on terms at least as favorable as those offered on the open market, to carry out the Corporation's nonprofit purpose as authorized by the Corporation's Directors.

Notwithstanding the foregoing, the Corporation's powers shall be limited as follows:

- i. The Corporation shall not have nor exercise any power of authority expressly, by interpretation or by operation of law, nor shall it directly or indirectly engage in any activity that would prevent it from qualifying and continuing to qualify as a tax exempt entity.

- ii. No part of the assets or net earnings of the Corporation shall ever inure to the benefit of or be distributable to its Directors, Officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services actually rendered and to make reimbursement in reasonable amounts for expenses actually incurred.

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4. The initial Directors of this Corporation shall be five (5) in number and their names and addresses are as follows:

5. The term of the initial Directors shall be until the first annual meeting of the Corporation or until their successors are appointed as provided in the Corporation's Bylaws.

ARTICLE EIGHT

The Corporation's Board of Directors shall not be individually liable for the debts or obligations of the Corporation. Furthermore, no Director or Officer of the Corporation shall be personally liable to the Corporation for civil claims arising from acts or omissions made in the performance of his or her duties, unless the acts or omissions are the result of intentional misconduct.

ARTICLE NINE

The organization's Articles of Incorporation and Bylaws may only be altered, amended, repealed, or new Articles of Incorporation or Bylaws adopted as provided in the organization's Bylaws.

ARTICLE TEN

Upon dissolution or final liquidation, the assets of the Corporation remaining after discharge of the debts and obligations of the Corporation shall be distributed exclusively to Idaho State University or to such other charitable, scientific, literary, or educational organizations designated by Idaho State University that are tax exempt under Internal Revenue Code § 501(c)(3).

ARTICLE ELEVEN

The undersigned, being the incorporator, for the purpose of forming a Corporation to do business both within and without the state of Idaho, and pursuant to the Idaho Non-Profit Corporation Act, does hereby make and file these Articles of Incorporation and does hereby declare and certify that this is her or his act and deed and that the facts herein stated are true.

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In witness whereof, these Articles of Incorporation are executed in duplicate on the _____ day of _____, 2014.

Incorporator
Print name: _____

STATE OF IDAHO)
 ss.
County of Bannock)

On this _____ day of _____, 2014, before me, the undersigned notary public in and for said state, personally appeared _____, being first duly sworn under oath, known or identified to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same.

Witness my hand and official seal.

Notary Public for Idaho
Residing at: _____
My commission expires: _____

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EXHIBIT D

**BYLAWS
OF
IDAHO STATE UNIVERSITY INTELLECTUAL PROPERTY FOUNDATION, INC.**

**ARTICLE ONE
GUIDING PHILOSOPHY**

The Directors, Officers, and employees of the Corporation will strive to:

1. Promote ethical work standards where the highest quality of achievement is aspired to and expected.
2. Appoint and retain the highest caliber of staff that can be attracted where integrity, intelligence, self-motivations, expertise, performance, commitment, and fairness are prime considerations.
3. Create an efficient operation in which each individual expeditiously performs multiple tasks, as needed, to maximize quality output at the most attractive cost-performance tradeoff.
4. Create a stimulating, challenging, and fair work environment in which individuals are able to learn and advance professionally.
5. Foster the commercialization of Idaho State University (University) technology through endeavors with public and private enterprises including institutions of learning, private businesses, individuals, and government agencies, leading to the dissemination and application of knowledge, discoveries, inventions, and technology for the public good.
6. Enhance the ability of University to meet its mission and goals by cooperative use of Corporation and University resources including facilities, faculty, researchers, staff, and students.
7. Abide by policies, procedures, and guidelines of the Idaho State Board of Education applicable to the commercialization of University intellectual property the Idaho State Board of Education (these policies, procedures, and guidelines as currently constituted and the successor policies, procedures, and guidelines thereto are referred to herein collectively as "State Board Policies and Procedures"), applicable ISU policy, state and federal law and act only in a manner consistent with these policies and laws.
8. In pursuing commercialization of University technology, IPF will act in a manner consistent with the University's overarching goal of delivering useful products to the public. The IPF will pursue commercialization of University technology in a

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manner that encourages commercialization rather than generating revenue primarily through threats of patent infringement litigation (“patent trolls”) or “flipping” technology. The IPF will carefully review the State Board Policies and Procedures, which provide detailed directions on these issues, and act only in a manner consistent therewith.

ARTICLE TWO
BOARD OF DIRECTORS

1. **Number.** The number of Directors on the IPF Board of Directors shall be five (5).
2. **Ex Officio Directors on the Board.** Ex Officio Directors on the IPF Board shall include the University’s President and the Corporation’s Executive Director and other key persons as approved by a majority vote of the Board of Directors. Ex Officio Directors shall not count against the number of Directors allowed in these Bylaws. Provided, however, the number of Ex Officio Directors shall not exceed five (5) and Ex Officio Directors shall not be entitled to vote on any matter coming before the Board of Directors.
3. **Manner of Selection and Vacancies.**
 - a. Two University employees must always be on the IPF Board of Directors, provided, however, the University’s representation on the Board of Directors shall not constitute a majority of the full membership on the Board.
 - b. Appointments to name successor IPF Board members or fill Board vacancies shall be made by the Board of Directors, provided, however, that the President of the University shall appoint successors to, or make appointments to fill vacancies for, those Directors who were University employees when appointed.
4. **Term.** Each Director, whether by initial appointment or appointment to a vacancy, shall serve for a term of three (3) to eight (8) as designated by the Chair of the IPF Board of Directors. The Chair shall manage the length and/or start dates of terms to preclude, to the extent possible, more than three (3) new Directors being appointed in any one year. A person filling a vacancy is eligible for reappointment in the same manner as set forth in paragraph 3 above. A Director may resign at any time by delivering a written resignation to the Executive Director, a Vice President, or the Recording Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Director may be removed by majority vote of the Board of Directors, upon adequate opportunity for hearing before the Board of Directors.

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5. Actions by the IPF Board.

- a. The Directors shall only act as a Board, and the individual Directors shall have no power as such. At all meetings of the Board of Directors, the presence of a majority of the then total appointed and acting number of Directors shall be necessary and sufficient to constitute a quorum for transacting business. Except as otherwise required herein, in the Articles of Incorporation, or by statute, the action of a majority of the Directors present at any properly called meeting at which a quorum is present shall be the act of the IPF Board of Directors. Additionally, though not taken at a regular or special meeting, the Board of Directors' action shall be valid and binding if reduced to writing and signed by each Director. Provided, however, such writing must be transmitted to the Secretary within ten (10) business days and attached to the minutes of the next meeting of the Board of Directors.
- b. The IPF Board of Directors provides oversight and direction for the Corporation's policies, procedures and resource allocations, makes recommendations for the development of Corporation projects, assists in the development of effective relationships between the University and various Corporation programs, and seeks to enhance and strengthen the research capabilities at the University.
- c. Ex Officio Directors have all rights of participation and discussion and contribution, except for voting at meetings of the Board of Directors. Provided, however, they may be excluded from specific matters by the Chair of the Board of Directors or by majority vote of the Board.
- d. The property, affairs, and business of the Corporation shall be subject to oversight by the Board of Directors.
- e. The IPF Board of Directors may from time to time organize standing or ad hoc committees to provide greater insight into specific areas for which the Corporation's Board of Directors is responsible. Said committees are to be chaired by a Director and serve with other Directors and non-Directors who have expertise relating to specific committee responsibilities. Committee Chair or member assignments may change at any time as approved by the Board of Directors.

6. Conflict of interest.

- a. The Director is considered to have a conflict of interest if: (1) the Director has existing or potential financial or other interest in the matter before the Board, which might reasonably appear to impair the Director's independent, unbiased judgment in the discharge of his or her responsibilities; or the Director is aware that a family member, or any organization of which the family member is an officer, director, employee,

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member, partner, trustee or controlling stockholder, has existing or potential financial interests in any matter before the Board.

- b. Any possible conflict of interest on the part of any Director or Officer shall be disclosed to the Board of Directors and made a matter of record either through an annual procedure or when the interest becomes relevant to any matter before the Board.
- c. Any Director having a possible conflict of interest regarding a matter before the Board shall not vote or use his or her personal influence on the matter. Such Director shall not be counted in determining the meeting quorum regarding actions related to the potential conflict. The minutes of the meeting shall reflect such disclosure, abstention from voting, and the resulting quorum for action on the matter. The foregoing requirements are not be construed as preventing the Director from briefly stating his or her position in the matter, or from answering questions from other Director since his or her knowledge may be of assistance. Provided, however, the Director may not participate in any debate regarding the matter.
- d. This paragraph shall not prohibit a Director, or an organization in which a Director has a financial interest from pursuing a Corporation purchase or contract.

7. Meetings.

- a. Regular meetings. The IPF Board of Directors shall meet quarterly unless otherwise determined by the Board. Directors may appear by telephone or streaming video if approved by the Chair. The first regular meeting held during the first quarter of each fiscal year shall be the annual meeting. The specific time and place of each regular meeting shall be fixed by the Chair of the Board of Directors. The purpose of the regular Board meeting should be to establish or update policies, appoint Officers, review finances, review ongoing programs, plan and prioritize future directions, and perform any other appropriate functions as necessary for business operations as allowed pursuant to state and federal law. Directors, Ex Officio Directors, and Officers are invited to submit agenda items to the Recording Secretary or Chair of the Board of Directors fifteen (15) days prior to the subject quarterly meeting date. Ten (10) days prior to the meeting date the Recording Secretary shall give written those of the time, place and location of such meeting to each Director. The Chair of the Board of Directors shall prepare an agenda for issuance by the Recording Secretary with said notice.
- b. Special meetings. Special meetings, in addition to a regular meeting, may be called by the Chair of the Board of Directors, or by written request to the Recording Secretary from a majority of the Directors. Written notice of

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the time, place and subject matter of each special meeting shall be given to each Director at least ten (10) days before the meeting date.

8. **Leadership of the Board.** The Corporation's Board may elect, by a majority vote, a Chair and Vice Chair, and may appoint a Recording Secretary.
- a. Chair. The Chair of the Corporation's Board shall serve to carry out the goals and objectives of the Corporation, and shall:
 - i. Have and exercise general charge and supervision of the affairs of the Corporation and the Corporation's Board.
 - ii. Provide oversight and guidance to the Corporation's Executive Director or designee who is responsible for the administration of the affairs of the Corporation. Do and perform such other duties as assigned by the Board.
 - b. Vice Chair. The Vice Chair of the Corporation's Board shall serve to carry out the goals and objectives of the Corporation, and shall, in the absence of the Chair of the Corporation's Board, carry out all obligations and responsibilities assigned by the Chair.
 - i. Do and perform such other duties as assigned by the Chair.
 - ii. Do and perform such other duties as assigned by the Board.
 - c. Recording secretary. The Recording Secretary may also serve as Administrative Assistant. Duties shall include:
 - i. Prepare and distribute notices, agendas, waivers and minutes of all Board meetings.
 - ii. Keep records containing the name of all Directors, Ex Officio Directors and Officers of the Corporation, including their place of residence.
 - iii. Perform such other duties as assigned by the Chair.
 - d. Administrative assistant. The administrative assistant may also serve as Recording Secretary. Duties shall include:
 - i. Have custody of and maintain the corporate books, documents, archives and papers as instructed.
 - ii. File all reports required by Idaho law.

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iii. Perform such other duties as assigned by the Corporation's President or Chair.

9. **No Director Compensation.** The Directors shall serve without compensation, but reasonable expenses incurred may be reimbursed when expended for and in the interest of the Corporation under guidelines adopted by the IPF Board of Directors.

ARTICLE THREE
OFFICERS

1. **Membership.** Corporation Officers may consist of an Executive Director, Treasurer, and as many Vice Presidents as the Board may point. One person may hold more than one position as appointed by the Board. Provided, however, no person holding two or more offices may act in or execute any instrument in the capacity of more than one office.
2. **Appointment.** Corporation Officers shall be appointed and or reappointed at an annual meeting of the Board of Directors and each shall serve until resignation, removal, or until a successor is appointed. A vacancy may be filled by the Board at a regular or special meeting.
3. **Removal.** Any Officer may be removed by majority vote of the Board at either a special meeting or regular meeting.
4. **Salaries.** The salaries or other compensation of Officers shall be reviewed annually, adjusted if necessary and approved by the Board or designated committee. No Officer shall be prevented from receiving salary or compensation by reason of the fact that they are also Director.
5. **Surety bonds.** If required by the Board, an Officer shall execute to the Corporation a bond in such amount and with such surety or sureties as directed, contingent upon the faithful performance of such Officer's duties, including responsibility for negligence and for the accounting of all property, monies, or securities of the Corporation which may come into his or her hands.
6. **Duties and authority.** Responsibilities and authority of Officers shall be as follows:
 - a. Executive Director. The Executive Director of the Corporation serves at the will of the Board. The duties of the Executive Director include:
 - i. Direct day-to-day business affairs of the Corporation consistent with the direction of the Board.

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- ii. Advise, guide and direct the employees or representatives of the Corporation as they carry out the Corporation's plans and programs, ensuring consistency with Board approved policy and procedure.
 - iii. Exercise signature authority required by law to commit the Corporation and its assets and resources to the achievement of its mission, limited only by the articles of incorporation, these Bylaws and Idaho law.
 - iv. Oversee the human resources of the Corporation to assure that each individual is fairly treated in all aspects of their career.
 - v. Formulate policies for consideration and ratification by the Board.
 - vi. Establish goals and objectives for the Corporation and ensure that operations are being carried out in concurrence with stated goals
 - vii. Oversee the adequacy and soundness of the Corporation's financial structure.
 - viii. Represent the Corporation with the University, funding agencies and the community.
 - ix. The Executive Director shall report to the Board.
- b. Vice President. Duties of the Vice President, if any, shall be as determined by the Board.
- c. Treasurer. Duties of the Treasurer include:
- i. Have custody of all funds, property and securities of the Corporation.
 - ii. File or cause to be filed all financial, business and tax reports required by federal or state tax codes.
 - iii. Execute and issue leases, invoices, receipts, vouchers and checks and make payment on behalf of the Corporation.
 - iv. Keep accurate and full account of monies and obligations of the Corporation, and make such records available to the Board or other Officer at reasonable times upon request.
 - v. Have such other powers and duties as the Executive Director and Board may determine or as delegated and assigned by the Chair.

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ARTICLE FOUR
EXECUTION OF INSTRUMENTS

1. **Contracts.** All contracts which are to be executed by the Corporation shall be signed by someone authorized by Company policies such as the Executive Director. Any contract that would bind the University must be reviewed and approved in accordance with the Operating Agreement between the Corporation and the University.
2. **Other instruments.** Other instruments such as promissory notes, drafts, checks, endorsements and leases shall be signed by the Officers or individuals as determined by resolution of the Board.
3. **Classified contracts.** Contracts of a classified nature shall be handled and signed by those with specific and appropriate clearances. The Board may, by resolution, authorize such classified contracts to be managed and controlled by the Executive Director.
4. **Loans.** No loan or advance shall be contracted on behalf of the Corporation. No negotiable paper or other evidence of its obligation under any loan or advance shall be issued in the Corporation's name. No property of the Corporation shall be mortgaged, pledged, hypothecated, or transferred as security for payment of any loan, advance, indebtedness, or liability of the Corporation unless and except as expressly authorized by resolution of the Board.

ARTICLE FIVE
VOTING UPON STOCK OF OTHER CORPORATIONS

Unless otherwise ordered by the Corporation's Board of Directors, the Executive Director shall have full power and authority on behalf of the Corporation to vote either in person or by proxy at any meeting of the stockholders of any Corporation in which the Corporation may hold stock.

ARTICLE SIX
FEDERAL TAX EXEMPTION

The Corporation will seek a federal tax exemption as defined under Internal Revenue Code § 501(c)(3). If the Corporation becomes tax exempt, it will perform all acts required to retain tax-exempt status and will refrain from any activities forbidden by Internal Revenue Code § 501(c)(3). The Corporation will not solicit charitable contributions.

ARTICLE SEVEN
LIABILITY AND INDEMNIFICATION

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1. Directors, Ex Officio Directors, Officers and employees of the Corporation shall not be individually or personally liable for the debts or obligations of the Corporation and shall be indemnified by the Corporation against all financial loss, damage, costs, and expenses incurred by or imposed upon them in connection with or resulting from any civil or criminal action, suit, proceeding, claim of investigation in which they may be involved by reason of any action taken or omitted to be taken by them in good faith as a Director, Ex Officio Director, Officer, or employee of the Corporation.
2. Provided, however, the indemnification set forth above is subject to the condition that a majority of the Board, provided a quorum is present, who are not parties to such action, suit proceeding, claim of investigation or, if there be no such quorum, independent counsel selected by a quorum of the entire Board, shall be of the opinion that the involved person or persons exercised and used the same degree of care and skill as a prudent person would have exercised or used under the circumstances, or that such person took or omitted to take such action in reliance upon advice of counsel of the Corporation, or upon information furnished by a Director or Officer of the Corporation, and accepted in good faith and prudence by such person.
3. The indemnification set forth above shall inure to the benefit of the heirs, executors, and personal representative of any Director, Officer or employee and shall not be exclusive of any other rights to which such person may be entitled by law or equity or under any resolution adopted by the Board.

ARTICLE EIGHT
INDEPENDENT AUDIT AND FISCAL YEAR

After the close of each fiscal year, the Corporation's Board of Directors shall cause an audit, as required by law or as directed by the Board, of all Corporation assets and accounts to be made. The fiscal year of the Corporation shall be the same as that of the University.

ARTICLE NINE
ITEMS OF VALUE

Funds, grants, property, intellectual property, rights, claims, and every other item of value received, acquired, or developed by the Corporation shall be held by the Corporation and invested, sold, reinvested, marketed, or otherwise managed under the direction of the Board.

ARTICLE TEN
CORPORATE SEAL

The Corporation shall not have a corporate seal.

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ARTICLE ELEVEN
AMENDMENTS

These Bylaws and the Corporation's Articles of Incorporation may be altered, amended, repealed, or new Bylaws adopted only upon the unanimous vote of all Directors and the written approval of Idaho State University.

Approved and adopted by resolution of the Board of Directors on this ____ day of _____, 2014.

Idaho State University Intellectual Property Foundation, Inc.

By: _____
Print Name _____
As its _____

Attest:

By: _____
Print Name _____
As its Recording Secretary

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INSTITUTIONS OF THE STATE BOARD

SUBJECT

FY 2015 Supplemental: Fiscal Impact of Guns on Campus Law

APPLICABLE STATUTE, RULE, OR POLICY

Senate Bill 1254 (2014)
Idaho Code §18-3302J
Idaho Code §18-3309

BACKGROUND/DISCUSSION

The 2014 Legislature passed S1254 which reinforced the rights of citizens with certain concealed carry weapons permits to carry guns on Idaho college and university campuses. This law materially changes the security roles and responsibilities at the Idaho higher education institutions. Provisions of the new law will require additional resources in order to ensure the safety of officers, students, faculty and the public.

IMPACT

The fiscal note to S1254 provided that "There is a de minimus fiscal impact associated with posting signage at public entertainment facilities." However, when S1254 came before the Senate for final consideration, Senator Cameron, Chairman of the Senate Finance Committee, challenged the fiscal note under the provisions of Joint Rule 18.

Joint Rule 18 reads as follows: Statement of Purpose and Fiscal Notes. -- No bill shall be introduced in either house unless it shall have attached thereto a concise statement of purpose and fiscal note. The contact person for the statement of purpose and fiscal note shall be identified on the document. A statement of purpose or fiscal note is not a statement of legislative intent nor intended for any use outside of the legislative process. The statement of purpose and fiscal note applies only to a bill as introduced, and does not necessarily reflect any amendment to the bill that may be adopted. *No bill making an appropriation, increasing or decreasing existing appropriations, or requiring a future appropriation, or increasing or decreasing revenues of the state or any unit of local government, or requiring a significant expenditure of funds by the state or a unit of local government, shall be introduced unless it shall have attached thereto a fiscal note.* This note shall contain an estimate of the amount of such appropriation, expenditure, or change under the bill. The fiscal note shall identify a full fiscal year's impact of the legislation. Statements of purpose and fiscal notes may be combined in the same statement. All statements of purpose and fiscal notes shall be reviewed for compliance with this rule by the committee to which the bill is assigned. *A member may challenge the sufficiency of a statement of purpose or fiscal note at any time prior to passage, except upon introduction.* Nothing in this rule shall prohibit a statement of purpose or fiscal note from being revised. (emphasis added)

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The institutions will use existing resources and current cooperative partnerships with local law enforcement; however, the institutions have determined that additional resources will be required to protect students, faculty, staff and members of the public on the institutions' campuses. Some enhancements include access controls and surveillance systems, additional security personnel, and ongoing training.

ATTACHMENTS

Attachment 1 – BSU FY15 Supplemental	Page 5
Attachment 2 – ISU FY15 Supplemental	Page 7
Attachment 3 – UI FY15 Supplemental	Page 11
Attachment 4 – CWI FY15 Supplemental	Page 15
Attachment 5 – NIC FY15 Supplemental	Page 19

STAFF COMMENTS AND RECOMMENDATIONS

The President's Council met on August 5, 2014 and determined it was necessary and appropriate to request a FY 2015 supplemental appropriation to address the actual fiscal impact of responding to S1254. Only Lewis-Clark State College and College of Southern Idaho opted not to request additional funding. All ongoing and one-time funds are being requested as a supplemental in FY 2015 except for College of Western Idaho (CWI) which is requesting \$162,600 for FY 2015 and an annualized amount of \$115,300 for FY 2016.

The agenda for FY 2016 line items (BAHR Finance Tab 1) contains campus security budget line items for Boise State University, College of Western Idaho and North Idaho College only. If the Board approves the FY 2015 supplemental budget requests as submitted, those will be in lieu of the corresponding FY 2016 line items request with the exception of College of Western Idaho's FY 2016 line item which would need to be reduced to \$115,300. If the Board does not approve the FY 2015 supplemental requests, staff recommends the Board approve the campus security line times at Boise State University, Idaho State University, University of Idaho and North Idaho College at the amount submitted in this agenda, and to increase the request by College of Western Idaho to a total of \$277,900.

BOARD ACTION

I move to approve the FY 2015 supplemental appropriation requests for Boise State University, Idaho State University, University of Idaho, College of Western Idaho and North Idaho College as submitted, to eliminate the corresponding FY 2016 line items for Boise State University and North Idaho College in the BAHF Finance Tab 1 agenda, and to reduce the College of Western Idaho's FY 2016 line to \$115,300.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

OR

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BOARD ACTION

I move to approve the requested funding for campus security at Boise State University, Idaho State University, University of Idaho and North Idaho College as FY 2016 line items in the amount submitted in this agenda, to revise the request by the College of Western Idaho to a total of \$277,900, and to eliminate the corresponding FY 2016 line items for Boise State University and North Idaho College in the BAHR Finance Tab 1 agenda.

Moved by _____ Seconded by _____ Carried Yes _____ No _____

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AGENCY: Boise State University

Agency No.: 512

FY 2015 Supplemental Request

FUNCTION:

Function No.: 01

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ACTIVITY:

Activity No.:

Original Submission X or
Revision No. ___

A: Decision Unit No:	Title: Campus Security			Priority Ranking	
DESCRIPTION	General	Dedicated	Federal	Other	Total
FULL TIME POSITIONS (FTP)	10.0				10.0
PERSONNEL COSTS:					
1. Salaries	\$676,300				\$676,300
2. Benefits	\$227,500				\$227,500
3. Group Position Funding					
TOTAL PERSONNEL COSTS:	\$903,800				\$903,800
OPERATING EXPENDITURES by summary object:					
1. Operating Expense – one-time Detectors, training, screeners, signage, vests	\$403,400				\$403,400
2. Operating Expense - permanent	\$45,000				\$45,000
TOTAL OPERATING EXPENDITURES:	\$448,400				\$448,400
CAPITAL OUTLAY by summary object:					
1. Capital Expense – one-time Security Vehicle	\$40,000				\$40,000
TOTAL CAPITAL OUTLAY:	\$40,000				\$40,000
T/B PAYMENTS:					
LUMP SUM:					
GRAND TOTAL	\$1,392,200				\$1,392,200

Supports institution/agency and Board strategic plans:

The primary mission of Boise State University's Security Department is to provide a safe and secure campus environment. Senate Bill 1254 was passed into law and concealed weapons on campus are allowed on campus with the beginning of FY 2015.

Further, Senate Bill 1254 expressly prohibits firearms in campus dormitories or a venue hosting 1,000 people or more. This prohibition requires an enhanced access control program that necessitates metal detection capability at entrances. This capability requires additional trained security personnel, as well as armed campus security personnel to

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handle the resulting weapons situations. The impact is a substantial increase in security costs for FY 2015 and beyond.

This Supplemental Funding Request includes the following:

- Permanent funding for 10 FTE with salaries and fringe benefits totaling \$903,785. These positions include an Asst. Director Event Security, Chief of Campus Police and Public Safety, Director of Emergency Management, Security Technology Manager, 3 armed officers, 1 Security Supervisor, 1 Unarmed Officer, and Admin. Support.
- One-time funding to cover the purchase of metal detectors, hand held wands, signage, screeners, 1 new security vehicle and ballistic vests for personnel. These include costs incurred for game day security needs at Albertson's Stadium and other major events held on campus totaling \$443,448.
- Permanent funding for ongoing training exercises and other operating expenses totaling \$45,000.

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AGENCY: Office of the State Board of Education
 FUNCTION: Idaho State University,
 General Education

Agency No.: 513
 Function No.: 1000
 Activity No.:

FY 2016 Request
 Page 1 of 3 Pages
 Original Submission X or
 Revision No. ____

ACTIVITY: Guns on Campus

A: Decision Unit No: 12.01		Title: Guns on Campus			Priority Ranking 1 of 1
DESCRIPTION	General	Dedicated	Federal	Other	Total
FULL TIME POSITIONS (FTP)	11.0				
PERSONNEL COSTS:					
1. Salaries	286,800				
2. Benefits	180,500				
3. Group Position Funding – Idaho Falls Police Officers	11,200				
TOTAL PERSONNEL COSTS:	478,500				
OPERATING EXPENDITURES by summary object:					
1. Training – One Time	3,000				
2. Training – Annually	125,500				
TOTAL OPERATING EXPENDITURES:	128,500				
CAPITAL OUTLAY by summary object:					
1. Equipment – One-Time	182,000				
2. Equipment - Annually	9,700				
TOTAL CAPITAL OUTLAY:	191,700				
T/B PAYMENTS:					
LUMP SUM:					
GRAND TOTAL	798,700				

Supports institution/agency and Board strategic plans:

Goal _____ [e.g. Goal 1, Objective 3]

[Insert narrative here.]

Performance Measure: _____

[Insert narrative here.]

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Description:

Security enhancements required to implement the new guns-on-campus law.

Legal changes to reinforce the rights of citizens with certain concealed carry permits to bear arms on campuses in Idaho changes the security environment at ISU. Portions of the new law make it a crime to carry weapons, with or without a permit, into certain facilities on campus. Enforcement of this provision will require additional equipment to detect and prevent entry of weapons, as well as apprehension of violators of the law. Additionally, there is a significantly increased risk that campus security officers will encounter situations where individuals will be armed. In order to ensure the safety of officers, students, faculty and the public, it is essential that officers be provided the appropriate equipment, training, and support staff to address allegations of violation of the law, intercede with violators, and respond to emergency situations. This request provides for these essential requirements, including the arming of campus patrol officers.

Questions:

1. What is being requested and why? What is the agency staffing level for this activity and how much funding by source is in the base?

This is a new requirement based on newly enacted laws. There is no base funding.

2. What resources are necessary to implement this request?
 - a. List by position: position titles, pay grades, full or part-time status, benefit eligibility, anticipated dates of hire, and terms of service.
 - b. Note any existing human resources that will be redirected to this new effort and how existing operations will be impacted.
 - c. List any additional operating funds and capital items needed.

Personnel: Hiring of four senior security officers (pay grade G), six dispatch officers (pay grade F), and one emergency manager (non-classified); and the upgrade of four existing security officers (pay grade F) to senior security officers (pay grade G) to enable arming of junior officers.

Equipment and Supplies: One-time purchase of metal detectors for banned facilities, firearms for patrol officers, and personal protective/response equipment for new officers.

Training: Recurring annual personnel training and certification related to new duties and responsibilities inherent in implementation of the new law.

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3. Please break out fund sources with anticipated expenditures in the financial data matrix. (Please separate one-time vs. ongoing requests.) Non-General funds should include a description of major revenue assumption(s) (e.g. anticipated grants, etc.).

All expenses require new appropriated general funds totaling \$798,700 split between one-time costs of \$185,000 and recurring annual costs totally \$613,700.

4. Who is being served by this request and what are the expected impacts of the funding requested? If this request is not funded who and what are impacted?

Students, faculty, staff and visitors at the Pocatello, Idaho Falls, and Meridian campuses are being served by this request. The funding will provide enhanced training, provide greater protection to the campus and purchase associated equipment.

Failure to fund this request may put the campus community at an increased risk in the event of violations of the new law and/or of violent emergency situations. The university might also be at legal risk of failing to comply with enforcement of the new law, and for inadequate response to events as outlined in existing laws including the Clery Act.

5. If this is a high priority item, list reason why unapproved Line Items from the prior year budget request are not prioritized first.

This is a new requirement and was not requested in previous budgets.

Attach supporting documentation sufficient enough to enable the Board, Division of Financial Management, and the Legislative Budget Office to make an informed decision.

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AGENCY: College & Universities

Agency No.: 510

FY 2016 Request

FUNCTION: University of Idaho

Function No.: 04

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ACTIVITY:

Activity No.:

Original Submission X or
Revision No. ___

A: Decision Unit No: 12.xx		Title: Campus Security			Priority Ranking x of x
DESCRIPTION	General	Dedicated	Federal	Other	Total
FULL TIME POSITIONS (FTP)	1.00				1.00
PERSONNEL COSTS:					
1. Salaries	55,000				55,000
2. Benefits	20,000				20,000
3. Group Position Funding					
TOTAL PERSONNEL COSTS:	75,000				75,000
OPERATING EXPENDITURES by summary object:					
1. Expansion to existing security contract	165,000				165,000
2. Annual system maintenance	35,000				35,000
TOTAL OPERATING EXPENDITURES:	200,000				200,000
CAPITAL OUTLAY by summary object:					
1. Cameras, servers and software	305,300				305,300
TOTAL CAPITAL OUTLAY:	305,300				305,300
T/B PAYMENTS:					
LUMP SUM:					
GRAND TOTAL	580,300				580,300

Supports institution/agency and Board strategic plans:

The Office of Public Safety and Security within the University of Idaho is focused on creating and maintaining a safe environment for the University community and those who visit. The University engages with internal and external stakeholders to create effective and efficient safety and security programs that enhance the living, learning and working experience at the University of Idaho.

In light of this commitment to a safe environment the University of Idaho has carefully considered the potential impacts of Senate Bill 1254 on campus safety and security. The University will continue to contract with the Moscow Police Department to provide an armed presence on campus as well as additional support as needed in the event of

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any type of security issue or other emergency. This existing contractual arrangement does not require any additional state resources and takes advantage of the Moscow Police Department's existing presence on campus and the location of its headquarters only minutes away from the Moscow campus.

In addition to utilizing the existing relationship with the Moscow Police Department the University is requesting state funding to invest in a more comprehensive campus security surveillance system as well as expanded non-armed security presence on campus. These improvements will increase the overall safety of the campus regardless of the nature of the security issue or emergency.

Questions:

1. What is being requested and why? What is the agency staffing level for this activity and how much funding by source is in the base?

The University of Idaho is requesting \$275,000 in on-going and \$305,300 in one-time funding to purchase a security surveillance system, expand the scope of its current security contract and provide additional training to contracted security personnel as related to friendly intervention with firearms.

2. What resources are necessary to implement this request?

- a. List by position: position titles, pay grades, full or part-time status, benefit eligibility, anticipated dates of hire, and terms of service.

This request includes on-going funding for one full-time benefit eligible Security System Manager position (\$75,000 salary plus benefits).

- b. Note any existing human resources that will be redirected to this new effort and how existing operations will be impacted.
- c. List any additional operating funds and capital items needed.

Ongoing operating funding of \$165,000 is being requested to expand the current security contract (currently with Allied Barton) to provide additional ongoing training and add two additional security officers for expanded coverage for campus dispatch and surveillance monitoring. Ongoing funding of \$35,000 is being requested for annual security system maintenance.

One-time funding totaling \$305,300 is being requested for 291 new security cameras, related software licenses, management software, servers and upgrades to existing systems. This expanded system will cover the entries/exits of all primary facilities.

3. Please break out fund sources with anticipated expenditures in the financial data matrix. (Please separate one-time vs. ongoing requests.) Non-General funds should include a description of major revenue assumption(s) (e.g. anticipated grants, etc.).

This request is 100% State General Funds.

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4. Who is being served by this request and what are the expected impacts of the funding requested? If this request is not funded who and what are impacted?

This request serves the University community including students, faculty, staff and all who visit the University of Idaho campus.

5. If this is a high priority item, list reason why unapproved Line Items from the prior year budget request are not prioritized first.

Attach supporting documentation sufficient enough to enable the Board, Division of Financial Management, and the Legislative Budget Office to make an informed decision.

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AGENCY: Community Colleges
 FUNCTION: College of Western Idaho
 ACTIVITY: Student and Staff Safety

Agency No.: 505
 Function No.: 07
 Activity No.:

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 Original Submission X or
 Revision No. ___

A: Decision Unit No: 4.30		Title: WEAPONS ON CAMPUS			Priority Ranking	
DESCRIPTION	General	Dedicated	Federal	Other	Total	
FULL TIME POSITIONS (FTP)						
PERSONNEL COSTS:						
1. Salaries						
2. Benefits						
3. Group Position Funding						
TOTAL PERSONNEL COSTS:						
OPERATING EXPENDITURES by summary object:						
1. Contract police officers	\$57,600				\$57,600	
2. Vehicles	\$ 100,000				\$ 100,000	
3. Misc OE	\$5,000				\$ 5,000	
TOTAL OPERATING EXPENDITURES:	\$162,600				\$162,600	
CAPITAL OUTLAY by summary object:						
1. PC and workstation						
TOTAL CAPITAL OUTLAY:						
T/B PAYMENTS:						
LUMP SUM:						
GRAND TOTAL	\$162,600				\$162,600	

Supports institution/agency and Board strategic plans:

Idaho SBOE Goal 1, Objectives A

GOAL 1: A WELL EDUCATED CITIZENRY *The educational system will provide opportunities for individual advancement.*

Objective A: Access – Set policy and advocate for increasing access for individuals of all ages, abilities, and economic means to Idaho’s P-20 educational system.

Performance Measure:

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CWI Goal 1, Objectives 1; Goal 2, Objective 1

Institutional Priority 1: Structure Student Success – *The College of Western Idaho will implement a variety of programs to foster students' success in reaching their educational and/or career goals.*

Objective 1: *CWI will be actively involved in college readiness efforts that prepare students for success.*

Performance Measure: *Promote and publicize the positive financial and personal benefits of earning a degree or certificate from a community college.*

Institutional Priority 2: Develop Systems to Support Faculty and Staff – *The College of Western Idaho will prioritize support for employees, which thereby maximizes student success.*

Objective 1: *Develop resource allocation guidelines to effectively deliver programs and services.*

Performance Measure:

[To be developed]

Description:

CWI will initiate a 'School Resource Officer (SRO)' type program, which would be the most economical option for armed, P.O.S.T. certified law enforcement presence. This would be the most viable direction to proceed, considering the CWI two campus concept. The SRO would have oversight of all law enforcement issues, training, security assessments, and so forth.

The program is requested to begin in March 2014 (FY 2015), and continue at the same level in FY 2016.

Questions:

1. What is being requested and why? What is the agency staffing level for this activity and how much funding by source is in the base?

CWI requests a total of \$277,900 for armed police presence, as contracted from local police agencies. Of that total amount, \$162,600 is requested in fiscal year 2015 as a Supplemental Appropriation. Twelve months of operation is requested in Line Item 12.03.

Currently, CWI does not employ armed police officers, either directly or by contract. The current staffing level for unarmed security is approximately 12 full time and 7 part

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time contract positions. CWI currently spends approximately \$556,000 (FY 2014 dollars) for security (mostly for contract security staff).

2. What resources are necessary to implement this request?

- a. List by position: position titles, pay grades, full or part-time status, benefit eligibility, anticipated dates of hire, and terms of service.

This request includes two full-time, additional sworn police officers, contracted through a public law enforcement agency. It is estimated these positions would be in 'Police Officer III – Advanced', positions, with an hourly/annual pay rate of \$29.22/\$60,778, plus benefits. These officers would be employed by a local law enforcement agency, with PERSI benefits.

The Supplemental Appropriation assumes four months of operation in FY 2015, and twelve months of operation in FY 2016.

- b. Note any existing human resources that will be redirected to this new effort and how existing operations will be impacted.

No existing human resources would be redirected.

- c. List any additional operating funds and capital items needed.

It is estimated that approximately \$100,000 would be needed for vehicles for the officers (paid to the local agency via contract), training, equipment, and related. These vehicles would be purchased by the contracting agencies; CWI would include the amount in the initial payment to the contracting agencies.

3. Please break out fund sources with anticipated expenditures in the financial data matrix. (Please separate one-time vs. ongoing requests.) Non-General funds should include a description of major revenue assumption(s) (e.g. anticipated grants, etc.).

Fund source is expected to be the State General Fund.

4. Who is being served by this request and what are the expected impacts of the funding requested? If this request is not funded who and what are impacted?

Students, faculty, staff and visitors would all be served by this request. Due to the distance between CWI locations, it has been the procedure of CWI Security to provide a presence at all locations while the buildings are occupied with students. In locations such as Aspen Creek where the building are in close proximity, CWI Security provides an officer for the entire site and the officer covers all 3 buildings and grounds. This would also be the case in any location that has multiple building, or a more traditional campus setting.

If this request is not funded, CWI will have to make operational budgets cuts in order to adequately implement and meet the mandate of the State.

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5. If this is a high priority item, list reason why unapproved Line Items from the prior year budget request are not prioritized first.

This item has not been requested in the past.

Attach supporting documentation sufficient enough to enable the Board, Division of Financial Management, and the Legislative Budget Office to make an informed decision.

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AGENCY: North Idaho College

Agency No.:

FY 2015 Supplemental Request

FUNCTION: Education

Function No.: 02

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ACTIVITY:

Activity No.:

Original Submission X or
Revision No. ___

A: Decision Unit No: 12.01	Title: Security Measures			Priority Ranking of	
DESCRIPTION	General	Dedicated	Federal	Other	Total
FULL TIME POSITIONS (FTP)					
PERSONNEL COSTS: 2 Officers					
1. Salaries	\$64,000				\$64,000
2. Benefits	\$16,000				\$16,000
3. Group Position Funding					
TOTAL PERSONNEL COSTS:	\$80,000				\$80,000
OPERATING EXPENDITURES: Establish M & O budget:					
Security Training	\$15,000				
TOTAL OPERATING EXPENDITURES:	\$15,000				\$15,000
CAPITAL OUTLAY by summary object:					
<u>Exterior Campus Surveillance System:</u> Network Storage, (\$35,000); Entrance/Exit Cameras, (\$84,000); Parking lot Cameras, (\$40,000); License, (\$10,000); Installation, (\$16,000)	\$185,000				\$185,000
<u>Electronic Access Controls for Departmental/Building Zone Security:</u> 50 doors at \$5,000 per door.	\$250,000				\$250,000
Internal Electronic Access controls: Upgrade to current system to allow classrooms with electronic locks to be locked down from within.	\$90,000				\$90,000
TOTAL CAPITAL OUTLAY:	\$540,000				\$540,000
T/B PAYMENTS:					
LUMP SUM:					
GRAND TOTAL	\$620,000				620,000

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Supports institution/agency and Board strategic plans:

Performance Measures:

Narrative Support: Since the passing of SB 1254, allowing concealed weapons on campus, the safety of our college campuses have come into question. Increased training and personnel within our campus security department along with the installation of surveillance cameras and expanding the capability for securing areas of campus through electronic access will serve to make our campus safer.

Description: Enhancing the capabilities of our campus security by providing an increased visual presence and ability to respond to multiple calls will better serve our students, employees, and visitors.

Questions:

1. What is being requested and why?

Increased security personnel, campus wide exterior surveillance system, and enhanced electronic access controls. These 3 components will serve to improve the safety of our campus for students, employees, and visitors.

2. What is the agency staffing level for this activity and how much funding by source is in the base?

We are requesting 2 full-time, benefitted staff positions. 100% of the funding for this position is base.

3. What resources are necessary to implement this request

N/A

4. Please break out fund sources with anticipated expenditures in the financial data matrix. (Please separate one-time vs. ongoing requests.) Non-General funds should include a description of major revenue assumption(s) (e.g. anticipated grants, etc.).

All anticipated expenditures would be state general funds. \$540,000 would be one-time funds for capital purchases.

5. Who is being served by this request and what are the expected impacts of the funding requested? If this request is not funded who and what are impacted

Students, employees, and visitors to the North Idaho College campus will experience a more safe and secure environment. If this request is not funded, we will not be able to provide the enhanced level of safety and security we hope for.

6. If this is a high priority item, list reason why unapproved Line Items from the prior year budget request are not prioritized first.

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This request is being made due to the implementation of SB1245. Previously requested line items are a lower priority within the North Idaho College mission and strategic plan.

Attach supporting documentation sufficient enough to enable the Board, Division of Financial Management, and the Legislative Budget Office to make an informed decision.

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INSTRUCTION, RESEARCH AND STUDENT AFFAIRS
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UNIVERSITY OF IDAHO

SUBJECT

College of Agricultural and Life Sciences university courses offered to high school students for dual credit

APPLICABLE STATUTE, RULE, OR POLICY

Idaho State Board of Education Governing Policies & Procedures, Section III Y. Advanced Opportunities.

BACKGROUND/DISCUSSION

The stated intention of dual credit in Board policy is the offering of high quality courses that meet the standards of post-secondary credit for students in high schools. The University of Idaho College of Agricultural and Life Sciences developed courses that meet the required quality and rigor for university course credit. These are catalogued courses and have been offered in partnership with high school agriculture teachers for several years.

These courses are used only for the purpose of providing entry knowledge and skills for high school students. Board policy states that the courses must have the same content as degree courses; these courses do not meet that criteria.

The College of Agricultural and Life Sciences faculty are working to bring the offerings used for dual credit purpose fully in line with Board policy.

IMPACT

Courses are currently scheduled for high school students for the fall 2014 semester. Removal of these courses from the high school dual credit offerings impacts the ability of school districts to provide an appropriate course schedule for students in the fall semester. Additionally, the change in schedule may have an impact on the State Board of Education 60% college completion goal.

STAFF COMMENTS AND RECOMMENDATIONS

In early 2013, Board staff notified the College of Agricultural and Life Sciences (CALs) that many of their dual credit courses were not compliant with Board Policy III.Y. Since then, consecutive Chief Academic Officers have requested the courses be brought into compliance. The CALs has repeatedly said they are working to bring the courses into compliance. In spring 2014, the CALs enrolled high school students in the noncompliant courses and now request this waiver so those students may take the courses this fall. Board Staff recommends two things. First, staff recommends a one semester waiver of Board Policy III.Y – effective Fall 2014. Second, if the courses are not compliant prior to the enrollment period for Spring 2015, staff recommends that CALs notify the partner high schools and other relevant parties to make clear students will not be able to enroll in the courses for dual credit until the courses are compliant with Board Policy III.Y.

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BOARD ACTION

I move to approve the request by the University of Idaho for a waiver of Board policy III.Y. Advanced Opportunities, subsection 4, as it applies to the University's College of Agricultural and Life Sciences dual credit courses for the Fall 2014 semester, and direct University staff to work with Board staff to bring the courses into compliance prior to the end of the Fall 2014 term.

Moved by _____ Seconded by _____ Carried Yes _____ No _____